

# GENERAL COUNSEL'S REPORT

June 24, 2015

## **D. Hemophilia Preferred Care of Memphis, Memphis (Shelby County), TN — CN1201-002**

On 6/27/12, the Agency unanimously approved the establishment of a home care organization to provide home health services limited to serving those patients suffering from hemophilia or similar blood disorders who are also patients of the pharmacy operated by Hemophilia Preferred Care of Memphis at 852 South Cooper Street, Memphis (Shelby County), TN. The service area will be Shelby County. The estimated project cost was \$ 43,000.00.

On 6/25/14, the Agency unanimously approved an extension request, from 8/1/14 to 8/1/15. The extension request was due to difficulties in obtaining licensure.

Due to continued issues in obtaining licensure, including issues requiring a plan of correction, further delays have been incurred.

A 6 month extension is being requested, from 8/1/15 to 2/1/16.

**BAKER DONELSON**  
BEARMAN, CALDWELL & BERKOWITZ, PC

WILLIAM WEST, SHAREHOLDER  
Direct Dial: (615) 726-5561  
Direct Fax: (615) 744-5561  
E-Mail Address: [bwest@bakerdonelson.com](mailto:bwest@bakerdonelson.com)

BAKER DONELSON CENTER, SUITE 800  
211 COMMERCE STREET  
NASHVILLE, TENNESSEE 37201

MAILING ADDRESS:  
POST OFFICE BOX 190613  
NASHVILLE, TENNESSEE 37219

PHONE: 615.726.5600  
FAX: 615.726.0464

May 29, 2015

[www.bakerdonelson.com](http://www.bakerdonelson.com)

Jim Christoffersen, Esq.  
General Counsel  
9th Floor, Andrew Jackson Building  
502 Deaderick Street  
Nashville, TN 37243

*Via Hand Delivery*

Re: Request for Extension of CON Termination Date by Six Months for Hemophilia  
Preferred Care of Memphis, CON No. 1201-002

Dear Jim:

I am writing on behalf of Hemophilia Preferred Care, the holder of CON No. 1201-002 to ask the HSDA to grant an additional extension of time for the completion of this project of six months from its current expiration date of August 1, 2015. The extension we are requesting is for six months, which would yield an expiration date of February 1, 2016.

The reasons for this extension request are set forth in this letter. This project has encountered some difficulties in securing a survey of its operations by the Board for Licensing Healthcare Facilities staff. However, this problem has been resolved. On April 29, 2015, the Licensing Board staff did conduct a survey of the operations of Hemophilia Preferred Care. The licensure staff identified certain issues that required a plan of correction.

The plan of correction was submitted, but did not fully satisfy the requested corrections. A revised plan of correction is being prepared and will be presented promptly to the Licensing Board staff.

Because it is unclear at this point whether all of these issues can be resolved prior to the current expiration date of the certificate of need, currently set for August 1, 2015, and because the HSDA does not meet in July 2015, out of an abundance of caution we are filing this request for an additional extension of time of six months in order for Hemophilia Preferred Care to resolve these issues and obtain its home health agency license.

A check for the appropriate filing fee is enclosed with this letter. If you have any questions or need any additional information, please do not hesitate to contact me.

Jim Christoffersen, Esq.  
May 29, 2015  
Page 2

Sincerely,

BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, PC

A handwritten signature in black ink, appearing to read "Bill West", with a long, sweeping horizontal line extending to the right.

William West  
Attorney for Hemophilia Preferred Care

WHW/mhh  
Enclosure

cc: Ron Ciutat

**BAKER DONELSON**  
BEARMAN, CALDWELL & BERKOWITZ, PC

WILLIAM WEST  
Direct Dial: (615) 726-5561  
Direct Fax: (615) 744-5561  
E-Mail Address: bwest@bakerdonelson.com

BAKER DONELSON CENTER, SUITE 800  
211 COMMERCE STREET  
NASHVILLE, TENNESSEE 37201

MAILING ADDRESS:  
POST OFFICE BOX 190613  
NASHVILLE, TENNESSEE 37219

PHONE: 615.726.5600  
FAX: 615.726.0464

July 31, 2014

www.bakerdonelson.com

*Via Hand Delivery*

Ms. Melanie Hill  
Executive Director  
Tennessee Health Services and Development Agency  
Andrew Jackson Building, 9th Floor  
502 Deaderick Street  
Nashville, TN 37243

Re: Certificate of Need Application CN1201-002 Hemophilia Preferred Care of Memphis, Inc. - Site Change Issue

Dear Ms. Hill:

As you know, this firm represents Hemophilia Preferred Care of Memphis, Inc., which is the recipient of Certificate of Need number CN1201-002. This Certificate of Need project was recently granted a one-year extension of its expiration date at the June 2014 meeting of the HSDA. On behalf of Hemophilia Preferred Care of Memphis, Inc., we request that the matter set forth in this letter be placed on the HSDA's agenda to be acted upon at its August 27, 2014 meeting.

In the process of following up on the extension and responding to requests from the HSDA staff regarding progress on the Certificate of Need, it was determined that, after the grant of the Certificate of Need in 2012, the recipient of the Certificate of Need, Hemophilia Preferred Care of Memphis, Inc., had moved its location from 852 South Cooper Street, Memphis, Tennessee 38104, in Shelby County, to 6423 Shelby View Drive, Suite 104, Memphis, Tennessee 38134, a site also in Shelby County. It did so without notifying its counsel or the HSDA; it assumed that relocating its office within the City of Memphis did not implicate any CON issues.

The current status of this Certificate of Need project is that the applicant did, at its Shelby View location, undergo its survey for licensure purposes after the grant of the CON extension on June 25, 2014. The licensure survey turned up only one issue that needed to be resolved, and that resolution is in process at this time. Hemophilia Preferred Care anticipates the grant of its home health agency license by the Licensing Board at its September 9-10, 2014 meeting.

While typically the change of address of a Certificate of Need that has previously been approved but not completed requires a CON modification process or the grant of a new Certificate of Need by the HSDA, in the case of home health agencies, the law regarding changes of site is different. There is a provision of the HSDA's applicable statutes, T.C.A. § 68-11-1607(a)(5), which provides that a home

Ms. Melanie Hill  
July 31, 2014  
Page 2

health agency may change its location without the necessity of the grant of a new Certificate of Need if it remains within the same county. Although Hemophilia Preferred Care should have notified the HSDA staff of its change in location, the new location is within the City of Memphis and within the County of Shelby, which is consistent with T.C.A. § 68-11-1607(a)(5).

The statutory exception to the requirement of a Certificate of Need for the relocation of a home health agency office within a county, we believe, should guide the HSDA's analysis of this situation. If, post receipt of the license, Hemophilia Preferred Care of Memphis, Inc. could have relocated its office to Shelby View Drive from South Cooper in Memphis without a Certificate of Need, it is appropriate, in the view of the CON holder, that the HSDA not impose the requirement of a new Certificate of Need application on it because of this change of location.

Therefore, in light of the foregoing statutory provisions and the overall licensure context within which Hemophilia Preferred Care of Memphis, Inc., the CON holder in this matter, operates, Hemophilia Preferred Care of Memphis, Inc. respectfully requests that the HSDA determine that its change of location prior to receiving full licensure, is not an event in this case, which requires the grant of a new Certificate of Need. Also, in consequence of this request, the CON holder requests that its new address at 6423 Shelby View Drive in Memphis be recognized as the address of the Certificate of Need holder itself.

Representatives of Hemophilia Preferred Care of Memphis, Inc. will be present at the HSDA meeting on August 27, 2014, to answer any questions the agency staff or agency members may have about this matter.

Sincerely,

BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, PC



William West

WHW/vg

cc: Ron Cieutat

**BAKER  
DONELSON**  
BEARMAN, CALDWELL  
& BERKOWITZ, PC

WILLIAM WEST  
Direct Dial: (615) 726-5561  
Direct Fax: (615) 744-5561  
E-Mail Address: bwest@bakerdonelson.com

BAKER DONELSON CENTER  
SUITE 800  
211 COMMERCE STREET  
NASHVILLE, TENNESSEE 37201  
PHONE: 615.726.5600  
FAX: 615.726.0464  
MAILING ADDRESS:  
P. O. BOX 190613  
NASHVILLE, TENNESSEE 37219

www.bakerdonelson.com

May 28, 2014

Ms. Melanie Hill  
Executive Director  
Tennessee Health Services and Development Agency  
Andrew Jackson Building, 9th Floor  
502 Deaderick Street  
Nashville, TN 37243

*Via Hand Delivery*

Re: Request for Extension of Expiration Date for CON No. CN1201-002, for Hemophilia Preferred Care of Memphis for One Year to 8/1/2015

Dear Ms. Hill:

As you know, this firm represents Hemophilia Preferred Care of Memphis, which obtained certificate of need number CN1201-002 at the June 27, 2012 at the HSDA meeting. The applicant and certificate of need holder has been attempting to obtain home health licensure since that time but has encountered a number of problems in that regard. It is currently awaiting its survey from the staff of the Board for Licensing Healthcare Facilities. There has been some confusion with regard to Hemophilia Preferred Care's status as a home health agency, given that it is primarily a pharmacy and does not function as a typical home health agency.

In light of these delays and in order to have sufficient time to obtain its full licensure from the Board for Licensing Healthcare Facilities, Hemophilia Preferred Care of Memphis respectfully requests that the Health Services and Development Agency grant it a year extension on its certificate of need, CN1201-002, up to and including August 1, 2015. The CON is currently scheduled to expire on August 1, 2014. A check for \$1,500 in payment of the extension filing fee is enclosed.

If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, PC



William West

WHW/mhh

cc: Ron Cieutat

N WHW 1331447 v1

STATE OF TENNESSEE  
Health Services and Development Agency



Certificate of Need No. CN1201-002A is hereby granted under the provisions of T.C.A. § 68-11-1601, *et seq.*, and rules and regulations issued thereunder by this Agency.

To: Hemophilia Preferred Care of Memphis, Inc  
852 South Cooper Street  
Memphis, TN 38104

For: Hemophilia Preferred Care of Memphis

This Certificate is issued for: The establishment of a home care organization and the initiation of health services limited to pharmacy patients of Hemophilia Preferred Care of Memphis, Inc. with hemophilia or similar blood disorders.

**CONDITION:** Home health services are limited to the pharmacy patients of Hemophilia Preferred Care of Memphis, Inc. with hemophilia and similar blood disorders which include Von Willebrand disease; hypoprothrombinemia & dysfibrinogenemia.

On the premises located at: 852 South Cooper Street  
Memphis (Shelby County), TN 38104

For an estimated project cost of: \$43,000.00

The Expiration Date for this Certificate of Need is

August 1, 2014

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After the expiration date, this Certificate of Need is null and void.

Date Approved: June 27, 2012

D. Lynn Johnson  
Chairman

Date Issued: July 25, 2012

Melanie M. Hill  
Executive Director